

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREDERICK KERNER and LINDA DIANE KERNER, h/w	:	CIVIL ACTION
vs.	:	NO. 02-CV-4728
SIGNODE CORPORATION	:	<b>JURY TRIAL DEMANDED</b>

**ANSWER OF SIGNODE CORPORATION TO PLAINTIFFS' COMPLAINT**

Defendant, Signode Corporation, (hereinafter "Signode") by and through its attorneys, White and Williams LLP, hereby responds to Plaintiffs' Complaint as follows:

1. Signode is without sufficient knowledge to form a belief as to the truth of those averments contained in paragraphs 1, 2, 4, 6 and 7.
2. Paragraphs 5, 14 and 15 are admitted.
3. Paragraphs 3, 8, 9, 10, 11, 12, 17, 19, 27, 29 (sic) are denied.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint fails to state a cause of action against answering Defendant upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

If Plaintiff-husband were injured as alleged, which is denied, such injuries were caused or substantially contributed to by the negligence and carelessness of others, over whom answering

Defendant exercised no control nor right to control.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' cause of action may be barred entirely or in part by the applicable Statute of Limitations.

**FOURTH AFFIRMATIVE DEFENSE**

Any claims against answering Defendant may be barred in whole or in part by the comparative negligence or responsibility of any potential or future Co-Defendants.

**FIFTH AFFIRMATIVE DEFENSE**

The husband-Plaintiff assumed the risk of injury or harm.

**SIXTH AFFIRMATIVE DEFENSE**

The product identified in Plaintiffs' Complaint may have underwent substantial modifications after it left the care, custody, control of answering Defendant, if it ever was in the care, custody, control of answering Defendant, thus constituting a superseding cause of the incident in question.

**SEVENTH AFFIRMATIVE DEFENSE**

The injuries and damages of Plaintiff alleged in the Complaint may have directly and

proximately caused by the superseding, intervening acts and omissions of third parties or other parties to this lawsuit for which answering Defendant is neither responsible nor liable.

**SEVENTH AFFIRMATIVE DEFENSE**

The damages or injuries of the Plaintiff as alleged in the Complaint may have been legally and proximately caused by the unforeseeable misuse of the product described in the Complaint and, therefore, cannot provide the basis for any recovery against answering Defendant.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs claims are barred by his contributory negligence.

WHEREFORE, it is requested that Plaintiffs' Complaint be dismissed with prejudice and costs assessed.

**WHITE AND WILLIAMS LLP**

Attorneys for Defendant,  
Signode Corporation

By \_\_\_\_\_  
JAMES J. DONOHUE

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the within Answer has been served by first class mail on  
Plaintiffs' counsel, Rosemary Pinto, Esquire, on September 17, 2002.

**WHITE AND WILLIAMS LLP**  
Attorneys for Defendant,  
Signode Corporation

By \_\_\_\_\_  
JAMES J. DONOHUE